



**Summary of Major Provisions
Amended Substitute House Bill 86
Sentencing Reform Legislation (Effective September 30, 2011)
July 11, 2011**

THERE ARE NO PLANS TO MASS OR EMERGENCY RELEASE ANY INMATES.

Earned Credit

- Increases from 1 to 5 days per month for certain offenders.
- All sex offenders excluded from any earned credit eligibility.
- Language added to exclude most Felony 1 and 2 offenders from eligibility for expanded credits.
- Includes provision requiring GPS monitoring for the first 14 days following release for offenders who earn over 60 days of credits while incarcerated.
- Caps overall earned credit and/or program completion credit at 8 percent.
- Program completion credits – 5 days earned one time on second program completion only.
- This provision of the bill is prospective (will not apply to those currently incarcerated).

Increase in theft threshold

- Increases from \$500 to \$1,000 the minimum threshold to determine increased penalties (generally from a misdemeanor to a felony) for theft-related offenses and certain non-theft-related offenses.
- Increases other threshold amounts by 50% that determine other increased penalties for theft and non-theft related offenses.

Non Payment of Support

- Gives preference to sentencing non support offenders to alternative community sanctions.
- Substitute bill provides courts discretion to sentence offenders to prison when: (1) it is consistent with purposes and principles of sentencing, or (2) if offender was previously convicted of felony non support after the effective date of the amendment, and when either the offender was sentenced to a prior prison term, or was sentenced to prior community sanctions and failed to meet the conditions.

Absconding Supervision

- Authorizes the Adult Parole Authority to utilize existing sanctioning authority including potential return to prison for offenders who fail to comply with their terms of supervision.
- Creates a new penalty for the offense of “escape” involving conduct by a person under supervised release, with a reduction in penalty from current law. The language ties the penalty to the underlying crime for which the offender was originally sentenced. For offenders with an underlying offense of aggravated murder, murder, life sentence, or felony 1 or 2 offense, the penalty for escape from supervision would be a felony 4. For offenders with other less serious underlying charges, the penalty for escape from supervision would be a felony 5.

DRC Petition for 80% Release

- Allows Director of DRC to petition sentencing court for judicial release of inmate who has a stated prison term longer than one year who has served at least 80% of their sentence.
- Petition can be filed with the court up to 90 days prior to an inmate's 80% date.
- Excludes from eligibility offenders serving time for offenses involving guns or other deadly weapons, sexually oriented offenses, and Repeat Violent Offenders (RVO).
- DRC will submit petitions for some inmates who are currently incarcerated and who are eligible under the provisions of the bill.

Equalization of Crack and Powder Penalties

- Eliminates the distinction between criminal penalties for drug offenses involving crack and powder cocaine.
- Utilizes a blended sentencing approach. Raises powder penalties to the level of crack for felony 1, major drug offender possession and trafficking. Raises powder penalties for F1-F4 possession offenses, and lowers crack penalties for F1-F5 possession. Raises powder for F1-F3 trafficking offenses, and lowers crack penalties for F1-F5 crack trafficking offenses.

Treatment in Lieu of Conviction

- Expands eligibility to persons charged with specified theft and other offenses. Makes low level drug traffickers and felony 4 drug possession offenses eligible for TIL.
- Authorizes TIL for offender whose mental illness or intellectual disability contributed to their offense.
- Allows repeat offenders who have not committed a prior felony offense of violence to be considered for Treatment in Lieu.

Foster Supreme Court Decision

- Revives language to make concurrent sentences the first consideration.
- Instructs judges to make findings before imposing consecutive terms and makes the findings specific to the offender and offenses.

Mandatory Drug Provisions

- Creates new categories and potentially shorter mandatory terms for trafficking in marijuana and hashish, and possession of hashish and marijuana.
- Makes changes to other mandatory felony 3 drug penalties.

Council of State Governments Justice Reinvestment in Ohio Recommendations

- Requires judges, under certain circumstances, to sentence first time non-violent Felony 4 and Felony 5 offenders to probation and appropriate treatment alternatives.
- Allows judges to sentence Felony 1 serious and violent offenders up to a maximum of 11 years.
- Allows judges at sentencing to determine offender's eligibility for an 80% Risk Reduction conviction if they complete the appropriate treatment and programming requested by the court and DRC. The offender may be released by DRC to supervision for the remaining 20%.
- Allows appropriate risk offenders to be sentenced directly to CBCFs based on certain criteria to be placed in administrative rule that includes the Ohio Risk Assessment System (ORAS).

- Requires certain (Felony 3s) to be sentenced in a range of 1-3 years. (exceptions include: sexual battery, corrupting a minor, gross sexual imposition, aggravated vehicular homicide, and aggravated vehicular assault).
- Allows judges to sentence repeat robbery and burglary offenders who have two prior incarcerations for the same offense up to 5 years in six month increments.
- Remaining categories of Felony 3s – follow the CSG recommendation of 3 year sentence maximum: may be sentenced in 6 month increments.

Certificates of Achievement and Employability

- Director of DRC or their designee may award certificates based upon behavior, community service, and program achievements.
- Licensing boards and commissions must consider ex-offender's applications before automatic disqualification of a license.
- Allows employer immunity for hiring ex-offenders.
- This provision applies to inmates currently incarcerated.

Judicial Release

- Removes the 10 year cap for judicial release.
- Offenders serving more than 10 years may be eligible to apply for judicial release, depending on their crime.
- Restores judicial release eligibility for offenders with five-year sentences.
- This provision applies to inmates who are currently incarcerated.

Other Provisions

- Adds provisions from Senate Bill 92, limiting Parole Board members to a total of two, six year terms, and exempting chair and victim's member from term limits. Applies term limits prospectively to members appointed on or after September 30, 2011.
- Adds provisions from Senate Bill 33 codifying DRC reentry planning process.
- Adds Director of Veteran's Services to State Agency Reentry Coalition.
- Changes membership of Parole Board required for full board hearing to majority instead of 7.
- Revises procedures for notification of victim's and other Office of Victim Services changes.
- Remove judges from membership of a correction's commission.
- Establishes community alternative sentencing centers.
- Defines DRC reentry centers and modifies payment rules for residential facilities.
- Modifies membership of county local corrections planning boards.
- Various other clean-up amendments.
- Requires that offenders under the concurrent supervision of multiple probation departments be supervised by a single supervising authority.
- Creates new probation improvement and probation incentive grants available to certain probation departments that use evidence-based practices and demonstrate a reduction in probation revocations resulting in prison commitment.

NOTE

Chief of Staff Linda Janes is convening a group of staff to begin the process of developing administrative rules, policies, and procedures that need to be implemented for many of these provisions.

Deputy Director, Sara Andrews is convening a group of external stakeholders to begin developing standards for the Justice Reinvestment Probation incentive grants and probation standards.